

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IHSSAN BEYDOUN,

Plaintiff,

v.

Case No. 09-10445  
Hon. Lawrence P. Zatkoff

COUNTRYWIDE HOME LOANS, INC.,  
COUNTRYWIDE FINANCIAL CORP.,  
PHH MORTGAGE CORP., and  
CHARTER ONE FINANCIAL, INC.,

Defendants.

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**ORDER**

This matter is before the Court on Defendant PHH Mortgage Corp.’s (“Defendant”) motion to amend/modify the Court’s order granting Defendant’s costs and attorney fees [dkt 27]. Plaintiff responded to Defendant’s motion, but Defendant did not submit a reply brief. The Court finds that the facts and legal arguments are adequately presented in the parties’ papers such that the decision process would not be significantly aided by oral argument. Therefore, pursuant to E.D. Mich. L.R. 7.1(e)(2), it is hereby ORDERED that the motion be resolved on the briefs submitted. For the reasons set forth below, Defendant’s motion is GRANTED IN PART and DENIED IN PART.

On June 23, 2009, the Court entered an opinion and order granting Defendant’s motion for summary judgment [dkt 21]. In the order, the Court stated that “costs and reasonable attorney’s fees may be appropriate in this matter because Plaintiff so multiplied the proceedings ‘unreasonably and vexatiously’” under 28 U.S.C. § 1927, and it ordered Defendant to submit an accounting of its costs

and attorney fees. After reviewing Defendant's submission of accounting, the Court ordered Plaintiff to pay Defendant costs and reasonable attorney fees in the amount of \$1,850.00.

In its current motion, Defendant contends that the Court erred in ordering "Plaintiff" to pay Defendant's costs and attorney fees, as opposed to Plaintiff's counsel's law firm, Landis & Day, PLC. Plaintiff responds that the Court did not err in ordering Plaintiff to pay Defendant's costs and attorney fees, and that if the Court amends its judgment, the order should be directed at Plaintiff's counsel, Kassem Dakhllallah, who is no longer employed by Landis & Day, PLC.<sup>1</sup>

Although the title of Defendant's motion asks the Court to modify or amend its prior order, which appears to request relief under Fed. R. Civ. P. 59(e), Defendant states in its brief that it is requesting relief under Fed. R. Civ. P. 60(b). Therefore, the Court will construe Defendant's motion as one brought under Fed. R. Civ. R. 60(b), which authorizes the Court to relieve a party or its legal representative from a final judgment or order due to mistake.

Under 28 U.S.C. § 1927, “[a]ny attorney or other person admitted to conduct cases in any court of the United States . . . who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct.” (emphasis added). In the Court's order granting Defendant's motion for summary judgment, the Court stated that attorney fees would be awarded based on Plaintiff's vexatious multiplication of the proceedings under 28 U.S.C. § 1927. Thus, the Court agrees with Defendant that under 28 U.S.C. § 1927, attorney fees should have been awarded against counsel for Plaintiff, rather than Plaintiff. However, the Court disagrees that the

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<sup>1</sup> Edward L. Ewald, Jr. is also listed on the Court's electronic document filing system as counsel for Plaintiff. However, it is apparent that Dakhllallah was primarily responsible for the vexatious multiplication of the proceedings.

fees should be awarded against Landis & Day, PLC, rather than the attorneys involved.

Therefore, the Court hereby amends its order [dkt 26] awarding Defendant its reasonable attorney fees and follows: Counsel for Plaintiff, Kassem Dakhllallah, is hereby ordered to pay Defendant PHH Mortgage Corp. its reasonable attorney fees in the amount of \$1,850.00.

Accordingly, Defendant's motion to amend/modify the Court's order granting Defendant's costs and attorney fees [dkt 27] is GRANTED IN PART and DENIED IN PART.

IT IS SO ORDERED.

Date: June 7, 2010

S/Lawrence P. Zatkoff  
HON. LAWRENCE P. ZATKOFF  
UNITED STATES DISTRICT JUDGE